

HUM's argument is straightforward. It points out that on March 31, 2016, the Court granted summary judgment for Defendant Peggy D. Mathes ("Mathes") on Plaintiff's negligence-as-legal-counsel claim. See Wildasin v. Mathes, 2016 WL 1274574, at *1 (Mar. 31, 2016). In reaching that result, the Court reasoned that, because "Tennessee courts generally assume that the average layperson is ill equipped to decide whether an attorney's conduct meets the applicable standard of care," Plaintiff Joan Ross Wildasin could not make a prime-facie case without expert testimony. Id. at *8. The Court's holding easily followed from that reasoning: Plaintiff had failed to introduce expert testimony, so her claim failed as a matter of law. Id. at *8–9.

HUM contends that Plaintiff's claim against HUM must fail, too. It notes that Plaintiff brought only one claim against HUM: vicarious liability for Mathes's negligence as legal counsel. (Docket No. 30, p. 8; Docket No. 92, p. 2.) Since Plaintiff cannot prove Mathes's negligence as counsel, HUM continues, Plaintiff is also barred from proving that HUM was vicariously liable for Mathes's negligence. (Docket No. 92, pp. 2–3.)

The Court agrees. Under Tennessee law, a plaintiff may not prove vicarious liability without proving the existence of an underlying tort. See Queen v. Tenn. Valley Auth., 508 F. Supp. 532, 535 (E.D. Tenn. 1980), aff'd, 689 F.2d 80 (6th Cir. 1982) ("Tennessee law does not impose vicarious liability when the agent is not subject to individual liability."). Thus, if a plaintiff cannot show that an agent has committed a tort, the plaintiff cannot show that the principal is vicariously liable for the agent's tortious conduct. Id. See also, e.g., Quality Tech. Co. v. Stone & Webster Eng'g Co., Inc., 745 F. Supp. 1331, 1343 (E.D. Tenn. 1989) ("[T]his Court has found [the contractor] to be absolutely immune from common law tort liability, [so] there can be no liability as to [the contracting company,] . . . because Tennessee law does not

impose vicarious liability when the agent is not subject to individual liability.”); Stokes v. Smokey Mountain Aero, Inc., 457 F. Supp. 677, 678 (E.D. Tenn. 1978) (“If no action can be maintained against an employee for the employee’s acts, Tennessee law also bars any actions against the employer based on vicarious liability.”).

The Court has already found that Plaintiff cannot prove her negligence-as-legal-counsel claim against Mathes. See Wildasin, 2016 WL 1274574, at *1. Without being able to prove Mathes’s negligence, Plaintiff cannot show that HUM was vicariously liable for that negligence. See Queen, 508 F. Supp. at 535. Plaintiff’s vicarious liability claim against HUM therefore fails.

CONCLUSION

For the foregoing reasons, the Court will grant HUM’s Rule 54(b) Motion; amend its March 11, 2016 Order; and grant summary judgment in favor of HUM on Plaintiff’s negligence-as-legal-counsel-claim. An appropriate Order will be entered.



KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE